

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 6178

BILL NUMBER: SB 93

DATE PREPARED: Nov 3, 2001

BILL AMENDED:

SUBJECT: IURC Enforcement Authority.

FISCAL ANALYST: John Parkey

PHONE NUMBER: 232-9854

FUNDS AFFECTED: **GENERAL**
 X DEDICATED
 FEDERAL

IMPACT: State

Summary of Legislation: This bill allows the Utility Regulatory Commission (IURC) to impose the following penalties if a utility violates state utility law or fails to comply with an IURC order:

- (1) A civil penalty of not more than \$25,000 per violation.
- (2) A cease and desist order.
- (3) An order for corrective action.
- (4) Revocation or modification of certain certificates and permits.

The bill authorizes the Attorney General to bring an action to enforce any of these penalties. The bill provides for the deposit of the civil penalties in the Commission's Public Utility Fund account. For violations of telecommunications slamming and cramming laws, the bill allows the IURC to impose only those civil penalties allowed under current law. The bill authorizes the IURC to direct a utility to provide service within 24 hours if the IURC determines that the service is necessary to prevent injury or to alleviate an emergency. It also repeals a superseded statute concerning the IURC's enforcement powers.

Effective Date: July 1, 2002.

Explanation of State Expenditures: This proposal extends the IURC's enforcement power over regulated Indiana utilities. The proposal allows the IURC to impose civil penalties, issue cease and desist orders, and modify permits issued by the Commission. Under current law, the IURC can only revoke a certificate or permit. While this bill would make more options available to the IURC in the event of a violation or act of noncompliance, it is not expected to cause additional procedures or expenditures for the Commission.

The proposal also authorizes the Attorney General to bring an action in a court that has jurisdiction over the noncompliant utility. If more legal actions are sought, the administrative burden of the Attorney General's office may increase.

Explanation of State Revenues: This bill would authorize the IURC to impose a penalty of up to \$25,000 on a utility for each violation or act of noncompliance. If the IURC or the Office of the Utility Consumer Counselor (OUCC) directs a utility to provide service to avoid personal injury or alleviate an emergency situation, each day the utility does not comply with the order would be considered a separate violation subject to a civil penalty.

Penalties would be deposited into the Public Utility Fund, which is used for the operation of the IURC and the OUCC. It is not known in how many instances the IURC would impose monetary penalties.

The penalty provisions authorized by this bill would not change the civil penalties allowed for violations of laws related to slamming and cramming by telecommunication providers. Civil penalties assessed on these violations are deposited in the state General Fund.

Background on IURC and OUCC Funding: The operating budgets of the IURC and OUCC are funded by regulated utilities operating in Indiana. The IURC determines the rate at which to bill the utilities based on the two agencies' budgets, less reversions, divided by the total amount of gross intra-state operating revenue received by the regulated utilities for the previous fiscal year. Based on this formula, utilities are currently billed approximately 0.10% of their gross intra-state operating revenues to fund the IURC and OUCC. In FY 2001, fees from the utilities and fines generated approximately \$8.6 M.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Indiana Utility Regulatory Commission; Office of the Utility Consumer Counselor; Attorney General's Office.

Local Agencies Affected:

Information Sources: Mike Leppert, Executive Director, IURC, (317) 232-2714.